IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 12331 of 2006
With
CRIMINAL MISC.APPLICATION No. 13316 of 2006
With
CRIMINAL MISC.APPLICATION No. 13321 of 2006
With
CRIMINAL MISC.APPLICATION No. 12509 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHANUBHAI RAJENDRABHAI SUHADIA
Versus
LALITBHAI MANGILAL JAIN AND ANOTHER

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Appearance :
MR TUSHAR MEHTA for Applicant.
MR UTPAL M PANCHAL for Respondent No.1.
MR AY KOGJE, APP for Respondent No.2.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 04/05/2007

ORAL JUDGMENT

1) This group of petitions arise out of a common complaint. The petitioner, who is common in all these petitions is the original complainant. In a complaint bearing C.R.No.308/2006 dated 10th June, 2006, the complainant had stated, inter alia, in the said complaint that on the date of incident, i.e., on 10th June 2006, three persons, namely, Bhogilal Mangilal, Lalitbhai Mangilal and Nareshbhai Mangilal and about five more persons had come to the complainant and started abusing him and his brother and started beating them with fists. The complainant stated that Lalitbhai Mangilal was carrying a revolver in his pocket. Other assailants were carrying iron pipes and rods and sticks. All these eight persons had beaten the complainant with fists.

1.1) In connection with said complaint, all the three accused persons were arrested. They were, however, released on regular bail by the learned Sessions Judge.

2) It is the case of the complainant that accused No.1 and 3 had committed forgery and with the help of Dr.Arvindkumar Pandey and Dr.Sumitkumar Jagani had tried to create false *alibi* of being admitted in a hospital. It appears that the said doctors, i.e., Dr.Arvindkumar Pandey and Dr.Sumitkumar Jagani were also later on added as accused persons in the said criminal case and arrested but released on bail by the learned Sessions Judge.

3) The petitioner, original complainant has, therefore, filed these applications seeking cancellation of bail granted to accused No.1 and 3 as well as to said two doctors, who were added later on.

4) Criminal Misc. Application No.12509/2006 seeks cancellation of bail granted to accused no.1. Criminal Misc. Application No.12331/2006 seeks cancellation of bail granted to accused no.3. Criminal Misc. Application Nos.13321/2006 and 13316/2006 seek cancellation of bails granted to Dr.Arvindkumar Pandey and Dr.Sumitkumar Jagani respectively.

5) Learned advocate Shri Mehta for the applicants submitted that this is a fit case for cancellation of bail. He further submitted that when the original accused have tried to misuse the liberty to create an *alibi* and have created false documents, the conduct of the accused should be viewed seriously and bail granted to them should be cancelled.

6) I have heard learned advocate appearing for the original accused as well as learned APP for the State also.

7) Having heard learned advocates appearing for the parties, I do not find that this is a fit case where bail granted by the Sessions Court should be cancelled.

8) It is by now well settled that considerations for cancellation of bail are widely different from those governing cases of grant of bail.

9) I find that the allegations against the accused persons originally made were not serious enough warranting cancellation of bail *per se*. Only additional ground sought to be pressed is that accused no.1 and 3 in connivance with two doctors tried to create an *alibi* of their not being present at the scene of incident. These allegations are yet to be tried. Trial Court is seized of the matter and would ultimately give its verdict

on the evidence that may be produced before it. At this stage, only on this ground I do not find that there is any possibility of cancellation of bail. It is clarified that I have not expressed any opinion on the validity or otherwise of the allegations of creation of false *alibi* and the trial Court will decide the issue unmindful of this order.

10) In the result, these applications are rejected. Rule is discharged.

(Akil Kureshi, J.)

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